

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSHUA BAHADUR,

Plaintiff,

-against-

CITY OF NEW YORK; and Police Officers JOHN/JANE
DOE 1 through 10, individually and in their official
capacities (the names John and Jane Doe being fictitious,
as the true names are presently unknown),

Defendants.
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COMPLAINT

Jury Trial Demanded

ECF Case

15-cv-00978

Plaintiff, JOSHUA BAHADUR, by his attorney Katherine E. Smith, complaining of the
defendants, respectfully alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for compensatory damages, punitive damages and
attorneys' fees pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1988 for violations of his civil
rights, by defendants THE CITY OF NEW YORK, and Police Officers "JOHN and JANE DOE"
#1-10, as said rights are secured by said statutes and the Constitutions of the State of New York
and the United States.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth
and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and
1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c), as the incidents alleged herein occurred in this district.

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff JOSHUA BAHADUR is a resident of Bronx County in the City and State of New York.

7. At all times hereinafter mentioned, defendant CITY OF NEW YORK (“CITY”), was and still is a municipal corporation created, organized and duly existing under and by virtue of the laws of the State of New York.

8. At all times hereinafter mentioned, defendant, CITY, its agents, servants and/or employees operated, maintained, managed and controlled defendant, THE NEW YORK POLICE DEPARTMENT (hereinafter referred to as the “NYPD”), including all Law Enforcement Officers thereof.

9. At all times hereinafter mentioned defendant, NYPD, is an agency, instrumentality, department of defendant, CITY, and/or defendant, CITY, derived benefit from the activities of defendant, NYPD.

10. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

11. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

12. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

13. On or about October 9, 2013 at or around 5:30 p.m., plaintiff was lawfully in the vicinity of 44th and 43rd Street on 7th Avenue, New York, New York, in or around Times Square, near the “Yankees” Store.

14. Without provocation, several unidentified, plain-clothed NYPD officers approached plaintiff and inquired about a drug sale.

15. Plaintiff said that he knew that the officers were indeed police.

16. Angered by this, the defendant officers brutally attacked plaintiff, punching him in the face, and head; jamming one officers’ knee into plaintiff’s throat.

17. The attack was so violent and outrageous that uniformed NYPD Officers ran to plaintiff’s assistance, pulled the plain-clothed officer off of, and away from plaintiff, thereby preventing further injuring to plaintiff.

18. Plaintiff subsequently received medical treatment for the injuries he sustained as a result of the use of force employed by the defendant officers.

19. Plaintiff suffered damage as a result of defendants’ actions. Plaintiff suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to his reputation.

FIRST CLAIM **42 U.S.C. § 1983**

20. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

21. Defendants, by their conduct toward plaintiffs alleged herein, violated plaintiff's rights guaranteed by 42 U.S.C. § 1983, the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

22. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
UNREASONABLE FORCE

23. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

24. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

25. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
FAILURE TO INTERVENE

26. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

27. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

28. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
Malicious Abuse Of Process

29. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

30. The individual defendants issued legal process to place Plaintiff under arrest.

31. The individual defendants arrested Plaintiff in order to obtain collateral objectives outside the legitimate ends of the legal process, to wit, to cover up their assault of him.

32. The individual defendants acted with intent to do harm to Plaintiff without excuse or justification.

33. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: New York, New York
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